

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1241

- Applicant** : Luxe Tone Develop Limited represented by R-riches Property Consultants Limited
- Site** : Lot 1198 S.C (Part) in D.D. 119, Tong Yan San Tsuen, Yuen Long, New Territories
- Site Area** : 1,182 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tong Yan San Tsuen (TYST) Outline Zoning Plan (OZP) No. S/YL-TYST/14
- Zoning** : “Undetermined” (“U”)
- Application** : Temporary Warehouse for Storage of Furniture for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary warehouse for storage of furniture for a period of three years at the application site (the Site) (**Plan A-1a**). According to the covering Notes of the OZP, all uses or developments within the “U” zone except those specified in the Notes require planning permission from the Town Planning Board (the Board). The Site is currently occupied by the applied use without valid planning permission (**Plans A-2 to A-4**).
- 1.2 The Site is accessible from Kung Um Road to its east via a local track (**Plans A-2 and A-3**). According to the applicant, the applied use is for storage of furniture. No dismantling, maintenance, repairing, cleansing, paint spraying, other workshop activities and storage of dangerous goods will be carried out at the Site. No heavy goods vehicles, including container tractors/trailers, are allowed to park/enter the Site. Plans showing the vehicular access leading to the Site, site layout, drainage proposal and fire service installations (FSIs) proposal submitted by the applicant are at **Drawings A-1 to A-4** respectively.
- 1.3 The Site is involved in two previous applications for the same temporary warehouse use approved with conditions each for a period of three years by the Rural and New Town Planning Committee (the Committee) of the Board in 2016 and 2021 respectively (details at paragraph 5 below).

- 1.4 Compared with the last application (No. A/YL-TYST/1094), the current application is submitted by the same applicant for the same use at the same site with the same layout and development parameters. The major development parameters of the current application are summarised as follows:

Applied Use	Temporary Warehouse for Storage of Furniture for a Period of 3 Years
Site Area	About 1,182 m ²
Total Floor Area (Non-domestic)	About 622 m ²
No. and Height of Structures	5 • for warehouses and rain shelters (3 – 8.23 m, 1 storey)
No. of Parking Spaces	2 (for private cars) (5 m x 2.5 m each)
No. of Loading/ Unloading Space	1 (for medium goods vehicle) (11 m x 3.5 m)
Operation Hours	9:00 a.m. to 6:00 p.m., with no operation on Sundays and Public Holidays

- 1.5 In support of the application, the applicant has submitted the following documents:

- (a) Application Form received on 13.10.2023 (Appendix I)
 - (b) Supplementary Planning Statement (Appendix Ia)
 - (c) Further Information (FI) received on 9.11.2023* (Appendix Ib)
 - (d) FI received on 21.11.2023* (Appendix Ic)
 - (e) FI received on 1.12.2023* (Appendix Id)
- * *accepted and exempted from publication requirements*

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Supplementary Planning Statement (**Appendix Ia**). They can be summarised as follows:

- (a) the Site is the subject of two previous planning permissions. The applicant has made efforts to comply with the approval conditions under the previous application (No. A/YL-TYST/1094). A number of similar applications for warehouse use have also been approved by the Board in the vicinity of the Site. Approval of the current application will not set an undesirable precedent;
- (b) the applied use is not incompatible with the surrounding environment. The temporary use would not jeopardise the long-term planning intention; and
- (c) the applicant pledges to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (“Code of Practice). There will be minimal traffic, environmental and drainage impacts arising from the applied use.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicant is not a “current land owner” but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31B) by posting site notice and sending the notice to the Shap Pat Heung Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is currently not subject to planning enforcement action.

5. Previous Applications

- 5.1 The Site is involved in two previous applications (No. A/YL-TYST/801 and 1094) for temporary warehouse for storage of furniture use covering largely the same site. Details of the applications are summarised in **Appendix II** and the boundaries of the sites are shown on **Plan A-1b**.
- 5.2 Applications No. A/YL-TYST/801 and 1094 were approved with conditions each for a period of three years by the Committee in 2016 and 2021 respectively mainly on the considerations that the proposals were not incompatible with the surrounding uses; the developments would not frustrate the long-term development of the area; and the concerns of relevant government departments could be addressed by imposing approval conditions. However, the planning permission No. A/YL-TYST/1094 was subsequently revoked on 11.9.2013 due to non-compliance with time-limited approval conditions regarding the submission and implementation of drainage proposal.

6. Similar Applications

- 6.1 A total of 88 similar planning applications for various temporary warehouse uses with/without other uses within/straddling the subject “U” zone have been considered by the Committee in the past five years. Details of the applications are summarised in **Appendix II** and the locations of the sites are shown on **Plan A-1a**.
- 6.2 Out of the 88 similar applications, 84 were approved by the Committee mainly on similar considerations as those in paragraph 5.2 above. However, the planning permissions for 29 of them were subsequently revoked due to non-compliance with approval conditions.
- 6.3 The remaining four applications were rejected by the Committee between 2018 and 2021 on the grounds that approval of the application with repeated non-compliances would set an undesirable precedent for other similar planning permissions for temporary uses, thus nullifying the statutory planning control system.
- 6.4 For Members’ information, application No. A/YL-TYST/1240 for proposed temporary warehouse (excluding dangerous goods godown) for a period of three

years within the same “U” zone will also be considered at this meeting (**Plan A-1a**).

7. Planning Intention

- 7.1 The planning intention of the “U” zone is to cater for the continuing demand for open storage which cannot be accommodated in conventional godown premises. Any proposed developments within the zone should demonstrate that they will not have significant traffic, drainage and environmental impacts on the area.
- 7.2 According to the Explanatory Statement of the OZP, under the “Planning and Engineering Study for Housing Sites in Yuen Long South (YLS) – Investigation”, this area falls within the remaining stages of the YLS Development and the existing operations would be gradually phased out in stages.

8. The Site and Its Surrounding Areas (Plans A-1a to A-4)

8.1 The Site is:

- (a) accessible from Kung Um Road to its east via a local track (**Plans A-2 and A-3**); and
- (b) paved, fenced off and occupied by the applied use without valid planning permission (**Plans A-2 to A-4**).

8.2 The surrounding areas have the following characteristics (**Plans A-2 and A-3**):

- (a) comprise predominantly warehouses and open storage/storage yards with scattered residential structures, vehicle repairing workshops, logistics centre, glass workshop and vacant land/structures;
- (b) there are residential structures in the vicinity of the Site with the nearest one located about 15m to the southwest of the Site; and
- (c) except for six warehouses, an open storage yard and a vehicle repairing workshop with valid planning permissions (No. A/YL-TYST/1038, 1079, 1133, 1138, 1171, 1184, 1197 and 1220), the remaining warehouses, open storage/storage yards and vehicle workshop in the vicinity are suspected unauthorized developments (UDs) subject to planning enforcement action.

9. Comments from Relevant Government Departments

9.1 Apart from the government department as set out in paragraph 9.2 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices III and IV** respectively.

9.2 The following government department does not support the application:

Environment

9.2.1 Comments of the Director of Environmental Protection (DEP):

- (a) he does not support the application as there are residential uses in the vicinity (with the nearest one located to about 15m to its southwest) (**Plan A-2**) and the applied use will cause traffic of heavy vehicles, environmental nuisance is expected;
- (b) no environmental complaint concerning the Site was received in the past three years; and
- (c) should the application be approved, the applicant should note his advisory comments in **Appendix IV**.

10. Public Comment Received During the Statutory Publication Period

On 24.10.2023, the application was published for public inspection. During the statutory public inspection period, one public comment was received from an individual objecting to the application on the grounds that the previous application No. A/YL-TYST/1094 was revoked due to non-compliance with approval conditions and the applied use will generate adverse fire safety impacts on the surrounding areas (**Appendix V**).

11. Planning Considerations and Assessments

- 11.1 The application is for temporary warehouse for storage of furniture for a period of three years at the Site zoned “U” on the OZP. The applied use is generally not in conflict with the planning intention of the “U” zone which is to cater for the continuing demand for open storage which cannot be accommodated in conventional godown premises. The area is designated as “U” zoning mainly due to concerns of the capacity of Kung Um Road. In this regard, the Commissioner for Transport has no adverse comment on the application. Under the Revised Recommended Outline Development Plan of YLS, the Site falls within an area zoned “Other Specified Uses (Mixed Uses)” under Stage 3 of YLS Development. The Chief Engineer/Cross-Boundary Infrastructure and Development, Planning Department and Project Manager (West), Civil Engineering and Development Department have no objection to the application. Approval of the application on a temporary basis of three years would not jeopardise the long-term development of the area.
- 11.2 The surrounding area comprises predominantly warehouses and open storage/storage yards with some of them covered by valid planning permissions (**Plan A-2**). While there are residential structures in the vicinity, the applied use is generally not incompatible with the surrounding area.
- 11.3 There is no adverse comment from concerned government departments, including the Commissioner for Transport, Director of Fire Services and Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) on traffic, fire safety and drainage aspects respectively. While DEP does not support the application as there are sensitive receivers of residential use in the vicinity of the Site (with the nearest one located about 15m to its southwest) (**Plan A-2**) and

the applied use will cause traffic of heavy vehicles and environmental nuisance is expected, no environmental complaint concerning the Site has been received in the past three years. Furthermore, relevant approval conditions are recommended in paragraph 12.2 below to minimise any potential environmental nuisances or to address the technical requirements of other concerned government departments. Any non-compliance with the approval conditions will result in revocation of the planning permission and UD on the Site will be subject to planning enforcement action. Should the planning application be approved, the applicant will also be advised to follow the latest “Code of Practice”.

- 11.4 The Site is involved in two previous applications (No. A/YL-TYST/801 and 1094) for temporary warehouse use which were approved by the Committee in 2016 and 2021 respectively. However, the planning permission No. A/YL-TYST/1094 was subsequently revoked on 11.9.2023 due to non-compliance with time-limited approval conditions regarding the submission and implementation of drainage proposal. The current application is submitted by the same applicant as the last application with the same layout and development parameters. Nevertheless, the applicant has submitted a drainage proposal for the current application and CE/MN, DSD has no objection to the application. As such, sympathetic consideration may be given to the current application. The applicant will be advised that should it fail to comply with any of the approval conditions again resulting in revocation of the planning permission, sympathetic consideration may not be given to any further applications.
- 11.5 Given that two previous approvals for the same temporary warehouse use have been granted to the Site and 84 similar applications within/straddling the subject “U” zone have been approved in the past five years, approval of the current application is generally in line with the Committee’s previous decisions. While there were four similar applications in the subject “U” zone rejected on the ground that approval of the applications with repeated non-compliances would set an undesirable precedent, sympathetic consideration may be given to the current application for the reasons stated in paragraph 11.4 above.
- 11.6 There is one public comment objecting to the application received during the statutory public inspection period as summarised in paragraph 10 above. The planning considerations and assessments in paragraphs 11.1 to 11.5 above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 above and having taken into account the public comment mentioned in paragraph 10 above, the Planning Department considers that the temporary warehouse for storage of furniture could be tolerated for a period of three years.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of three years until 8.12.2026. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 6:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no dismantling, maintenance, repairing, cleansing, paint spraying, other workshop activities and storage of dangerous goods shall be carried out on the Site, as proposed by the applicant, at any time during the planning approval period;
- (d) no heavy goods vehicles, including container tractors/trailers, as defined in the Road Traffic Ordinance, are allowed to be parked/stored on or enter/exit the Site, as proposed by the applicant, at any time during the planning approval period;
- (e) the submission of a revised drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 8.6.2024;
- (f) in relation to (e) above, the implementation of the revised drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 8.9.2024;
- (g) in relation to (f) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (h) the submission of a revised fire service installations proposal within **6** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 8.6.2024;
- (i) the implementation of the revised fire service installations proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 8.9.2024;
- (j) if any of the above planning condition (a), (b), (c), (d) or (g) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (k) if any of the above planning condition (e), (f), (h) or (i) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory clauses

The recommended advisory clauses are at **Appendix IV**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection are suggested for Members' reference:

the applicant fails to demonstrate that the applied use would not generate adverse environmental impact on the surrounding area.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

14. Attachments

Appendix I	Application Form received on 13.10.2023
Appendix Ia	Supplementary Planning Statement
Appendix Ib	FI received on 9.11.2023
Appendix Ic	FI received on 21.11.2023
Appendix Id	FI received on 1.12.2023
Appendix II	Previous and Similar Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comment
Drawing A-1	Vehicular Access Plan
Drawing A-2	Site Layout Plan
Drawing A-3	Drainage Proposal
Drawing A-4	FSIs Proposal
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2023**